

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2611 OF 2004

Shri Sanjay Sitaram Khemka Petitioner

Versus

The Commissioner of Police & Ors.. ..Respondents

Mr.M.K.Kocharekar i/b Akhilsh Singh for petitioner

Ms.P.H.Kantharia, APP for State

CORAM : R.M.S.KHANDEPARKER &
P.V.KAKADE, JJ.

DATE : 27TH JANUARY, 2005.

P.C.

1. Heard.

2. The Petitioner seeks direction for transfer of investigation in relation to C.C. No.6/PW/04, C.C.No.52/PW/04, C.C. No.789/P/03, C.C.No.7/PW/04 and C.C.No.37/PW/04 on the ground that the Investigation Officer in the matter is biased against the Petitioner on two counts. Firstly that certain articles were

written by the Petitioner in the newspapers against the Police Department as well as against the working of the Police Station, to which the concerned officer is attached to and secondly because there were a complaint made against the said Investigation Officer with the higher authorities by the Petitioner. The learned advocate for the Petitioner, inspite of repeated queries by the Court, is unable to point out any material in support of first ground raised for the purpose of direction for transfer of the investigation. Undisputedly the proceedings before us nowhere disclose any pleading in that regard having been made by the Petitioner. As regards the second ground for transfer, the enquiry report, which was given by the Competent Authority was in favour of the concerned Investigation Officer. Merely because at some point of time the Petitioner had filed a complaint against the Investigation Officer that cannot a justification to hold that there would not be fair investigation in the matter. Undoubtedly the petitioner is entitled to approach this Court in case the respondents fails in conducting the investigation properly and adequately. However, on apprehension on the alleged ground, there cannot be justification to order the transfer of

investigation to the CBI. There being no case made out by the Petitioner to transfer the C.C. to CBI or to any other investigating agency, the Petition fails and is rejected.

(R.M.S.Khandeparkar, J)

(P.V.Kakade, J.)